

Message Text

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ACTION AF-18

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P 171605Z AUG 73
FM AMEMBASSY NIAMEY
TO SECSTATE WASHDC PRIORITY 6175

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E.O. 11652: N/A
TAGS:
SUBJECT: INSTALLATION COMPLEMENT AND NON-COMPLEMENT EMPLOYEES'
GON SOCIAL SECURITY COVERAGE

FOR AF/EX

REF: NIAMEY 2474 AND DEPARTMENT'S 160614

1. AGREEMENT TRANSMITTED TO MOFA ALONG WITH DIPLOMATIC NOTE ASKING FOR SIGNING WEEK OF AUGUST 20. AGREEMENT (APPROVED BY DEPARTMENT AND TRANSMITTED DEPARTMENT ON JULY 3, 1973) DOES NOT REPEAT NOT SPECIFICALLY INCLUDE OR PRECLUDE RETROACTIVITY. AGREEMENT, HOWEVER, CITES LAW NO. 65-116 OF AUGUST 18, 1965 AND LAW NO. 67-025 OF FEB 2, 1967 AS BASIS. LAW NO. 65-116 CROSS-REFERENCES LAW NO. 65-115 OF SAME DATE. LATTER, INTER ALIA, COMPELS EMPLOYERS TO PARTICI-PATE IN GON SS SCHEME RETROACTIVE TO DATE OF EMPLOYEE EOD. ON 2/14/73 GON SENIOR SOCIAL SECURITY OFFICIALS AGAIN WERE ADAMANT ON ISSUE OF RETROACTIVITY. GON OFFICIALS STATE THAT CASE COULD BE MADE FOR AN EARLIER DATE FOLLOWING FROM 1965 DECREES, BUT THEY HAVE BEEN WILLING TO ACCEPT 1/1/67 AS STARTING DATE FOR EMBASSY EMPLOYEES AND EMBASSY OFFICIALS HAVE TACITLY OR IMPLICITLY ACCEPTED THIS DATE OVER THE LONG YEARS OF NEGOTIATION.

2. AFTER A DELAY OF MANY YEARS IN ENANCTMENT OF SOCIAL BENEFITS LONG ENJOYED BY EMPLOYEES OF ALL OTHER UNCLASSIFIED

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PROGRESSIVE LOCAL ORGANIZATIONS, AMERICAN GOVERNMENT

WILL NOW SUFFER ACUTE EMBARRASSMENT IF IT HEDGES ON RETROACTIVITY. FURTHER, OUR EMPLOYEES WILL SUFFER LOSS FIVE YEARS' RETIREMENT BENEFITS FROM GON. SUM INVOLVED FOR COMPLEMENT AND NON-COMPLEMENT EMPLOYEES LESS THAN DOLS 15,000.

3. EMBASSY ALREADY SUFFERING EMBARRASSMENT WITH LOCAL GOVERNMENT IN LINGERING NEGOTIATIONS. CLIMATE NOT SUCH THAT EMBASSY CAN CLAIM OR EVEN MAKE MENTION OF DIPLOMATIC IMMUNITY CONCERNING RETROACTIVITY SINCE GON OFFICIALS SEE US AS DELINQUENT WHEN COMPARED TO OTHER EMBASSIES (INCLUDING FRENCH, GERMAN, REPUBLIC OF CHINA) AND LOCAL EMPLOYERS. GON OFFICIALS CONSIDER THEY HAVE SHOWN PATIENCE AND SPIRIT OF COMPROMISE WHICH CANNOT BE DENIED.

4. EMBASSY FEELS IT CANNOT DELAY ENACTMENT BEYOND SEPTEMBER
2. MUST STRONGLY URGE THAT RETROACTIVITY BE ACCEPTED AND THAT DEPARTMENT AUTHORIZE EMBASSY SIGN AGREEMENT DURING WEEK OF AUGUST 20.

5. EMBASSY HAS SIGNED CONTRACTS FOR FOUR U.S. GOVT AGENCIES WITH SMALL NIGERIEN CONTRACTOR COVER 80 EMPLOYEES PREVIOUS PAID FROM PETTY CASH. WHILE THESE CONTRACTS DO NOT SPECIFY RETROACTIVITY RETIREMENT SEGMENT AS SUCH, THEY DO REQUIRE NIGERIEN CONTRACTOR COMPLY WITH LOCAL LAWS WHICH REQUIRE RETROACTIVITY. CONTRACTOR AND EMBASSY WILL IMMEDIATELY COME UNDER PRESSURE LOCAL SOCIAL SECURITY ADMINISTRATION MAKE RETROACTIVE RETIREMENT PAYMENTS TO 1/1/67 AS ABOVE. EMBASSY'S POSITION DELICATE SINCE SUCH CONTRACTS ARE UNKNOWN IN NIGER AND REGARDED AS "EXPLOITATION OF LABOR". IF EMPLOYEES DO NOT RECEIVE FULL RETROACTIVE RETIREMENT PROTECTION IN THIS TRANSFER, U.S. GOVERNMENT AGENCIES WILL BE IN TOTALLY UNTENABLE POSITION OF APPEARING TO HAVE EMPLOYED EXTRAORDINARY AND UNETHICAL MEANS TO AVOID SOCIAL RESPONSIBILITIES WHILE SHIFTING ONUS FOR NON-COMPLIANCE TO A NIGERIEN.

6. IN THIS PATERNALISTIC SOCIETY, OUR SEEMING RELUCTANCE PARTICIPATE FULLY IN TRADITIONAL LOCAL PRACTICES BEARING ON BASIC SOCIAL JUSTICE THREATENS UNDERMINE OUR PROGRAMS HERE.
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